

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-07-29,064

In re: 1315 Peabody Street, NW, Unit 2A

Ward Four (4)

AHMED, INC
Housing Provider/Appellant

v.

JOSE OSMIN TORRES & LORENA LEIVA
Tenants/Appellees

**ORDER DISMISSING AS MOOT TENANTS' MOTION FOR LEAVE TO FILE
MOTION OUT OF TIME IN OPPOSITION TO MOTION TO AMEND NOTICE OF
APPEAL**

April 15, 2014

SZEGEDY-MASZAK, CHAIRMAN. This case is on appeal to the Rental Housing Commission (Commission) from a Final Order issued by the Office of Administrative Hearings (OAH),¹ based on a petition filed in the Rental Accommodations Division (RAD) of the District of Columbia Department of Housing and Community Development (DHCD). The applicable provisions of the Rental Housing Act of 1985 (Act), D.C. LAW 6-10, D.C. OFFICIAL CODE §§ 42-3501.01-3509.07 (2001), the District of Columbia Administrative Procedure Act (DCAPA),

¹ The Office of Administrative Hearings (OAH) assumed jurisdiction over tenant petitions from the Rental Accommodations and Conversion Division (RACD) of the Department of Consumer and Regulatory Affairs (DCRA) pursuant to the OAH Establishment Act, D.C. OFFICIAL CODE § 2-1831.01, -1831.03(b-1)(1) (2001 Supp. 2005). The functions and duties of RACD were transferred to DHCD by the Fiscal Year Budget Support Act of 2007, D.C. Law 17-20, 54 DCR 7052 (September 18, 2007) (codified at D.C. OFFICIAL CODE § 42-3502.03a (2001 Supp. 2008)).

D.C. OFFICIAL CODE §§ 2-501 – 510 (2001 Supp. 2008), and the District of Columbia Municipal Regulations (DCMR), 1 DCMR §§ 2800-2899, 1 DCMR §§ 2920-2941, 14 DCMR §§ 3800-4399 (2004) govern these proceedings.

I. PROCEDURAL HISTORY

On September 13, 2007, Tenants/Appellees Jose Osmin Torres and Lorena Leiva (Tenants), residents of 1315 Peabody St., NW, Unit 2A (Housing Accommodation) filed Tenant Petition RH-TP-07-29,064 (Tenant Petition) with DCRA against Housing Provider/Appellant Ahmed, Inc. (Housing Provider). *See* Tenant Petition at 1; Record for RH-TP-07-29,064 (R.) at 25. Administrative Law Judge (ALJ) Claudia Barber issued a Final Order on February 19, 2010, Torres v. Ahmed, Inc., RH-TP-07-29,064 (OAH Feb. 19, 2010) at 1; R. at 208.

On March 4, 2010, the Housing Provider filed a Notice of Appeal with the Commission. Notice of Appeal at 1. The Tenants filed a Motion for Reconsideration with the ALJ on March 8, 2010, and the ALJ issued an Order Granting Reconsideration, an Amended Final Order, and an Order Granting Motion for Attorney's Fees on April 15, 2010. *See* Order Granting Reconsideration at 1; Amended Final Order at 1; Order Granting Motion for Attorney's Fees at 1; R. at 301, 305, 316. On April 28, 2010, the Housing Provider filed a Second Notice of Appeal with the Commission, from the ALJ's Amended Final Order.

On February 9, 2011, the Housing Provider filed a Motion for Leave to Amend Notice of Appeal (Motion to Amend Notice of Appeal). *See* Motion to Amend Notice of Appeal at 1. The Tenants filed a "Motion for Leave to File Response Out of Time" (Motion for Leave to File Response) on March 7, 2011, seeking to file an Opposition to the Motion to Amend past the

deadline for filing oppositions dictated by 14 DCMR § 3814.3 (2004). *See* Motion for Leave to File Response at 1-2.

II. DISCUSSION OF THE MOTION FOR LEAVE TO FILE RESPONSE

The Commission will not address the merits of the Tenants' Motion for Leave to File Response, nor any ancillary claims made by the Tenants therein with respect to their compliance with the filing requirements of the Act for their Motion for Leave to File Response.² By order issued on the same day as this Order with respect to the same Tenant Petition at issue in this appeal, the Commission has denied the Housing Provider's Motion to Amend Notice of Appeal, the contested action to which the instant Motion for Leave to File Response is solely directed and responsive. *See Ahmed v. Torres*, RH-TP-07-29,064 (RHC April 14, 2014) (Order Denying Housing Provider's Motion to Amend Notice of Appeal).

By denying the Housing Provider's Motion to Amend Notice of Appeal, the Commission in its discretion determines that the relief sought by the Tenants is no longer necessary and that their Motion for Leave to File Response is moot. *See Smith v. Wells Fargo Bank*, 991 A.2d 20, 24-25 (D.C. 2010); *Settemire v. D.C. Off. of Emp. Appeals*, 898 A.2d 902, 905 (D.C. 2006).

The Commission is guided by well-established precedent from the District of Columbia Court of Appeals in making this determination:

[I]n deciding whether a case is moot, we determine 'whether this [c]ourt can fashion effective relief.' *Thorn v. Walker*, 912 A.2d 1192, 1195 (D.C. 2006) [additional citations omitted]. '[W]hile an appeal is pending, an event that renders relief impossible or unnecessary . . . renders that appeal moot.' *Id.*'

² For example, the Tenants claim that any "delays" in their filing of their Motion for Leave to File Response were based on "excusable neglect." *See* Motion for Leave to File Response at 1-2.

Smith, 991 A.2d at 24-25. See Settlemire, 898 A.2d at 905 (noting that “it is well-settled that, while an appeal is pending, an event that renders relief impossible or unnecessary also renders that appeal moot.”)

III. CONCLUSION

Based on the foregoing, the Commission dismisses the Tenants’ Motion for Leave to File Response as moot.

SO ORDERED



PETER B. SZEGEDY-MASZAK, CHAIRMAN

MOTIONS FOR RECONSIDERATION

Pursuant to 14 DCMR § 3823 (2004), final decisions of the Commission are subject to reconsideration or modification. The Commission’s rule, 14 DCMR § 3823.1 (2004), provides, “[a]ny party adversely affected by a decision of the Commission issued to dispose of the appeal may file a motion for reconsideration or modification with the Commission within ten (10) days of receipt of the decision.”

JUDICIAL REVIEW

Pursuant to DC OFFICIAL CODE § 42-3502.19 (2001), “[a]ny person aggrieved by a decision of the Rental Housing Commission. . . may seek judicial review of the decision . . . by filing a petition for review in the District of Columbia Court of Appeals. Petitions for review of the Commission’s decisions are filed in the District of Columbia Court of Appeals and are governed by Title III of the Rules of the District of Columbia Court of Appeals. The court may be contacted at the following address and telephone number:

D.C. Court of Appeals
Office of the Clerk
430 E. Street, N.W.
Washington, D.C. 20001
(202) 879-2700

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER DISMISSING AS MOOT TENANTS' MOTION FOR LEAVE TO FILE MOTION OUT OF TIME IN OPPOSITION TO MOTION TO AMEND NOTICE OF APPEAL** in RH-TP-07-29,064 was mailed, postage prepaid, by first class U.S. mail on this **15th day of April, 2014** to:

Edward Allen
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David A. Clarke School of Law
4200 Connecticut Ave., NW
Washington, DC 20008

Carol S. Blumenthal
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Washington, DC 20009

A handwritten signature in black ink, appearing to read "LaTonya Miles", written over a horizontal line.

LaTonya Miles
Clerk of the Court
(202) 442-8949